

April 14, 2017

Via Electronic Mail: [jjordan@fec.gov](mailto:jjordan@fec.gov) , [cdennis@fec.gov](mailto:cdennis@fec.gov)

Mr. Jeff Jordan, Esq.  
Assistant General Counsel  
Complaints Examination & Legal Administration  
Federal Election Commission  
999 E Street NW  
Washington, DC 20463

Attn: Ms. Christal Dennis

Re: AR 17-02 – Tea Party Express.org

Dear Mr. Jordan:

The undersigned has been retained to review the notice of AR 17-02 on behalf of Tea Party Express.org (“ the Committee”) and its treasurer, Kelly Lawler, in her official capacity (“ the Respondent”). We hereby submit this response to your February 2, 2018 Notice of Referral.

After conversations with the treasurer, it is clear that the Treasurer cooperated fully with the audit staff, but was unaware that she could have provided formal responses to challenge the draft audit findings and the Interim Audit Report. Much of the information in this letter should have been formally submitted during the course of the audit, at the designated points for formal submissions. As I review the final audit report, it is clear that the Committee did not take advantage of those opportunities to provide clarifying information to the Audit team regarding its initial and, ultimately, final findings. Accordingly, we submit to your office now information that the audit staff did not formally receive during the audit process.

**Audit Finding #3.** The Audit Report found that the Committee had failed to timely file 24/48 hour reports for \$848,522 in Independent Expenditures. This is not correct. Attached to this Response is a spreadsheet of disbursements for communications that was provided by the Audit team. We have noted on the schedule those communications that were and those that were not public communications. Over half of the disbursements on the schedule were communications to the prior donors to the Committee (“the Housefile”) such that the disbursements for communications that the Audit team identified as potential independent expenditures were not all reportable.

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The total disbursements identified on the attached schedule A from the Audit staff as potentially reportable is \$845,309.66. However, mailings to the housefile accounted for \$507,747.98 of the disbursements on Schedule A. All of the email communications on Schedule B were to the housefile, so none of the \$3,212.38 was reportable.

The balance of \$315,105.80 is the amount of public communications via direct mail to non-members that should have been reported as independent expenditures.

There are two additional entries on the audit staff's worksheets as reportable public communications, which should have been reported as IE's. Both the Raese - West Virginia ad (\$6,573.53) and the line item for Neumann Events ad (\$15,882.35) were for advertising communications which were timely reported as IE's, but these invoices for media production were not received from the treasurer until after she filed the IE reports and, accordingly, were not included in the independent expenditure reports filed by the Committee.

The total disbursements that should have been reported as independent expenditures is, therefore, \$337,561.68 rather than the amount reflected in the Audit report Finding #3 of \$848,522.

By way of explanation, the reason these amounts were not reported at the time is because the direct mail vendor did not provide to the treasurer the information noting that the mail was being sent to prospects rather than to members of the housefile, and therefore triggered IE reporting. Similarly, the production invoices related to the Wisconsin and West Virginia advertising were not provided to the treasurer until after the reporting deadlines for each.

We would point out that the Committee timely reported IE's in Wisconsin of \$100,075 and \$26,049.10 in West Virginia in 2012, with total IE reporting of \$539,421.80 for the cycle. There was certainly no intent to disregard the reporting obligations or to fail to timely report all costs associated with all independent expenditures. These two invoices were simply not forwarded to the treasurer in time to include them on 24/48 hour reports. It should be noted that these 2 disbursements were reported on the Committee's next quarterly reports. The treasurer has installed a new software system since the 2012 cycle that prevents the lapses that occurred with these two production invoices.

In summary, the Audit Finding #3 contains a calculation that does not take into account that most of the direct mail and all of the email communications were either reported or not reportable. We are happy to provide additional documentation in support of this response if desired.

**Finding #5: Failure to Itemize Debt and Obligations.** The Audit Report also found that the Committee failed to itemize \$310,561 in debts and obligations. The Treasurer has advised that the failure to properly report these debts and obligations arose from the manner in which the direct mail company processed vendor invoices, and then failed to provide the information to the

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Committee detailing and the mail company's disbursements to vendors in reports to the Committee. This reporting error happened several cycles ago – and since that time, the Treasurer has worked with the Committee's direct mail vendors to ensure that all vendor invoices, payments and outstanding amounts owed to any direct mail vendor and sub-vendor are itemized to the Committee for proper reporting. The Committee believes that it has corrected the problem and that it has been reporting each of the disbursements and obligations to each direct mail vendor. The Committee would request the opportunity to amend its reports for the 2011-12 and further submits that this reporting system issue has long since been addressed prior to the Audit report and the problem has not occurred in reports filed after the 2012 election cycle.

In conclusion, the Committee regrets that this information was not formally provided to the Audit team and the Commission during the course of the audit. The treasurer now is aware that there is ample opportunity to formally counter the proposed audit findings during various points during the audit.

We would request the opportunity to resolve this matter in the least burdensome manner, and look forward to working with your office to accomplish that objective.

Please contact me at (202) 431-1950 to discuss next steps regarding this referral and the information in the Committee's response.

Sincerely,

*/s/ Cleta Mitchell*

Cleta Mitchell, Esq., Counsel  
Tea Party Express.org

cc: Kelly Lawler, Treasurer  
Tea Party Express.org

Attachment